grounds of defense (Code 1904, §§ 3249, 3298) is not within the cognizance of the court.

[Ed. Note.—For other cases, see 16 Va.-W. Va. Enc. Dig. 1127.]

Sims, J., dissenting.

Error to Circuit Court, Loudoun County.

Action of debt by the Commonwealth, on the relation of the Westinghouse Electric & Manufacturing Company, against the National Surety Company and another. Judgment for plaintiff, and defendants bring error. Affirmed.

Mason Manghum, of New Bedford, Mass., *C. E. Nicol,* of Alexandria, and *J. J. Darlington, W. J. Lambert,* and *Frank J. Hogan,* all of Washington, D. C., for plaintiffs in error.

Eppa Hunton, Jr., of Richmond, and *E. E. Garrett,* of Leesburg, for defendant in error.

WILMOUTH'S ADM'R *v.* SOUTHERN RY. CO.

June 12, 1919.

[99 S. E. 665.]

1. Railroads (§ 327 (9)*)—Crossing Accidents—Contributory Negligence.—Where a pedestrian familiar with a much-used crossing, and knowing that a train was due, after waiting for a freight train to pass, started to cross the next track without looking for other trains, and was killed by a fast train, recovery was barred by contributory negligence.

[Ed. Note.—For other cases, see 11 Va.-W. Va. Enc. Dig. 594.]

2. Railroads (§ 317*)—Crossing Accidents—Speed Regulations.—Running a train over a much-used crossing at a rate of speed in excess of that allowed by ordinance, without warning, constitutes negligence.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 128.]

3. Railroads (§ 327 (3)*)—Highway Crossings—Duty to Look and Listen.—A pedestrian must look and listen before going upon a railroad track and use reasonable care to do so at a point where such action may be reasonably effective.

[Ed. Note.—For other cases, see 11 Va.-W. Va. Enc. Dig. 592.]

4. Railroads (§ 338*)—Crossing Accidents—Last Clear Chance.—Where a pedestrian, who failed to look, was struck by a train traveling at high speed over a much-used crossing, and train could not have been stopped even if the train crew had seen deceased, the doctrine of last clear chance was inapplicable.

[Ed. Note.—For other cases, see 17 Va.-W. Va. Enc. Dig. 255-6.]

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*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

Error to Corporation Court of Danville.

Action by Bryant Wilmouth's administrator against the Southern Railway Company. Judgment for defendant on demurrer to evidence, and plaintiff brings error. Affirmed.

Daniel Grinnan and *R. L. Montague,* both of Richmond, and *Harry Wooding, Jr.,* and *B. H. Custer,* both of Danville, for plaintiff in error.

Withers, Brown & Leigh, of Danville, for defendant in error.

SOUTHERN AMUSEMENT CO., Inc., *v.* FERRELL-BLEDSOE FURNITURE CO., Inc.

June 12, 1919.

[99 S. E. 716.]

1. Principal and Agent (§§ 99, 147 (2)*)—Ostensible Authority.—Though every one who deals with an agent does so at his hazard, and is bound to take notice of the extent of and limitations on the authority of the agent, the principal is bound to the extent that he holds another out as having authority to act on his behalf.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 247, 250.]

2. Corporations (§ 432 (12)*)—Theatrical Manager—Authority to Contract—Evidence.—Evidence held to show that the manager of an amusement company had authority, implied, if not explicit, to bind the company by ordering theater furniture, curtains, equipment, etc., from a furniture company with which he had previously dealt for his company.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 567.]

3. Corporations (§ 426 (10)*)—Act of Manager—Ratification—Acceptance of Burdens with Benefits.—Where the manager of an amusement company was without power to contract for furniture, etc., but nevertheless company accepted the benefit of the contract made in its name by its manager, and used the goods in its theater, the seller's proposal having been in writing and addressed to the amusement company, and accepted on its behalf by the latter's manager, the amusement company is bound by the contract.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 567; 10 Va.-W. Va. Enc. Dig. 567.]

4. New Trial (§ 68*)—Setting Aside Verdict—Lack of Support in Evidence.—Where the jury's verdict on first trial, finding for defendant, was without evidence to support it, it was not error for the trial court to set it aside.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 453.]

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*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.